





ANNUAL REPORT  
OF THE  
ATTORNEY GENERAL

FOR THE YEAR ENDING

DECEMBER 31, 1871.

BOSTON:  
WRIGHT & POTTER, STATE PRINTERS,  
No. 79 MILK STREET (CORNER OF FEDERAL).

1872



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.....No. 12.

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*D. L. A.*

# ATTORNEY GENERAL

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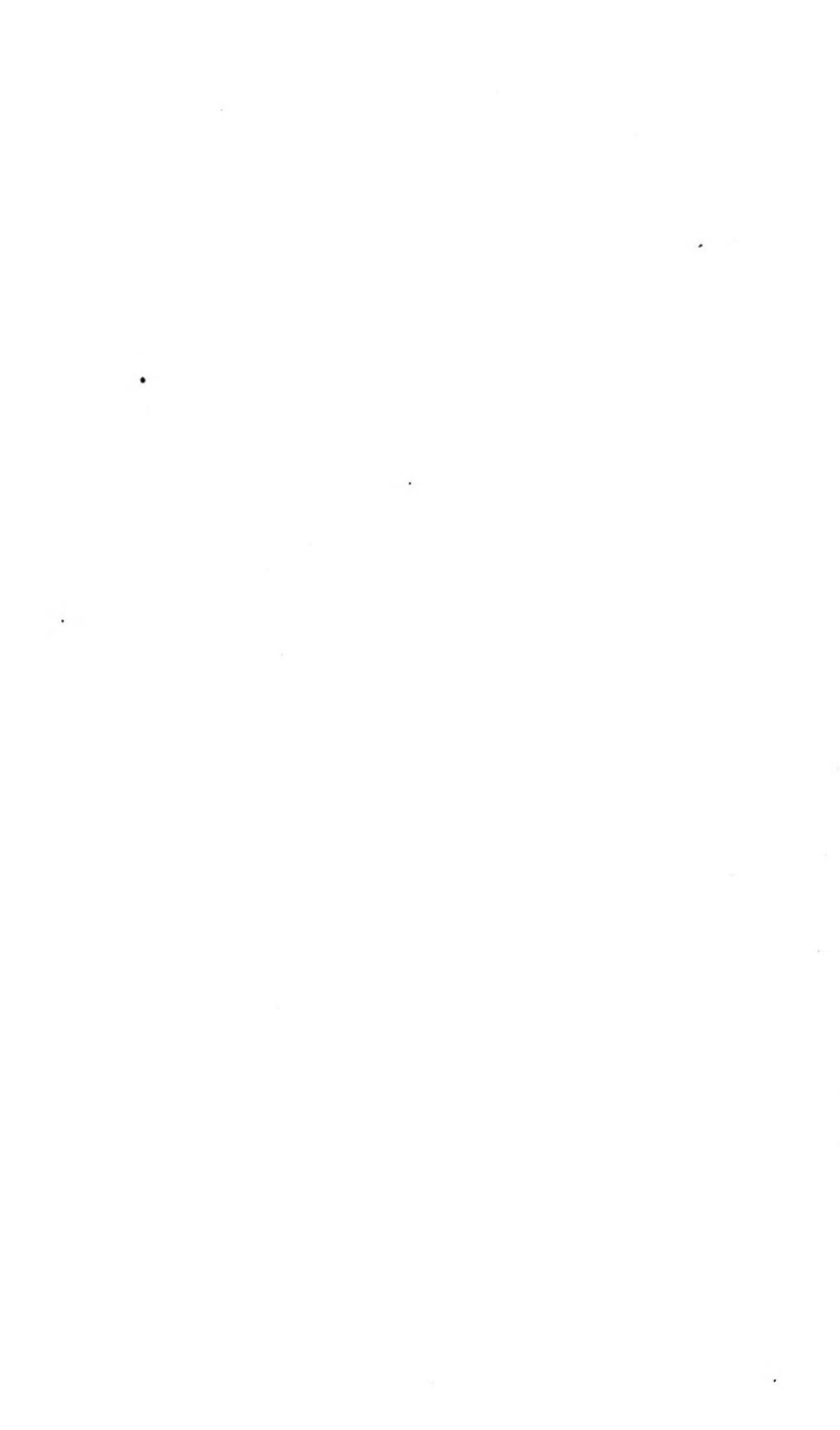
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## Commonwealth of Massachusetts.

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ATTORNEY GENERAL'S OFFICE,  
BOSTON, 30 COURT ST., January 11, 1872. }

*To the Honorable Speaker of the House of Representatives.*

SIR:—I have the honor to present my Fifth Annual Report. During the last year, there have been the following trials for murder:—

1. Indictment in Bristol County against Charles H. Cuffee, for the murder of Benjamin Howard. Verdict, guilty of murder in the first degree. Trial, May 16–18. Questions of law were reserved, and overruled on argument before the full court in October, and the prisoner sentenced to death. J. Brown and W. H. Johnson for the prisoner. District Attorney Mardon assisted me in the prosecution.

2. Indictment in Norfolk County against John Moran, for the murder of Charles M. Packard. Verdict, guilty of murder in the second degree. Sentence, imprisonment in the state prison for life. Trial, May 23–25. P. R. Guiney and E. C. Bumpus, for the prisoner. District Attorney French assisted me in the prosecution, and argued the case to the jury, by my request.

Besides the above trials, other indictments for murder have been disposed of, as follows:—

3. Indictment in Suffolk County against Thomas Brennan, for the murder of his wife. The prisoner appeared to be probably insane, and, with my consent, was committed by the court to the State Lunatic Hospital at Taunton, before trial, under the provisions of Gen. Sts., c. 172, § 14.

4. Indictment in Norfolk County against Dennis Carney, for the murder of his wife. The same disposition was made of this case as of the last preceding.

5. Indictment in Franklin County against Lyman J. White, for the murder of Calvin Carter. The prisoner pleaded guilty of murder in the second degree, and was sentenced to imprisonment in the state prison for life.

6. Indictment in Plymouth County against James Armstrong, for the murder of Elizabeth Armstrong. The prisoner pleaded guilty of manslaughter, and was sentenced to imprisonment in the state prison for twenty years.

The following indictments for murder remain undisposed of:—

1. Indictment in Middlesex County against Thomas Hertz, for the murder of Fanny Coultier.

2. Indictment in Middlesex County against Maria Birmingham, for the murder of an infant child.

3. Indictment in Middlesex County against Joseph Sullivan, for the murder of Henry Talbot.

4. Indictment in Norfolk County against John Kilday, for the murder of Patrick Moran.

5. Indictment in Norfolk County against David Scannell, for the murder of Charles Scannell.

6. Indictment in Suffolk County against Cornelius Conner, for the murder of David Wilber.

7. Indictment in Suffolk County against Michael Doyle, for the murder of Michael McCarty.

8. Indictment in Worcester County against Patrick Dumphry, for the murder of John Stark.

In Cushee's case, tried in Bristol, in May, certain law questions were reserved, and it was the opinion of the court that they could not properly be heard until the regular law term for that county in October. I recommend the passage of a law that whenever law questions are saved by exception or report in the trial of an indictment for murder, in any county, the court may, if they so order, hear the same, either in the

county where the trial is had, or in Suffolk County, at such time as they may appoint. This will put all the counties on the same footing, in this respect.

I also recommend the passage of a law providing that when a homicide is committed, a judge of the superior court, upon the application of the attorney general, or of the district attorney for the district, or, in the absence of the latter, of the district attorney of any other district, may direct the grand jury to be summoned together, on a day to be fixed by him, and the grand jury thereupon may proceed to investigate the case, and, if they find an indictment for murder, may return it into the clerk's office, and the like proceedings shall thereupon be had as is now provided by law when indictments for murder are returned.

I also recommend the passage of a law providing that two justices of the supreme judicial court shall be sufficient to sit in the trial of indictments for murder. It was always the case in this Commonwealth, till recently, that three justices constituted a quorum for the trial of capital causes; but by the passage of St. 1859, c. 196, § 39, requiring a majority of the justices to constitute a full court, it became necessary that four justices should sit. I am well aware of the advantages which result in the trial of indictments for murder from the presence of more than one justice. The opportunity for consultation, and the gravity and decorum of the proceedings before an assembly of justices, are certainly considerations not to be overlooked. To the credit of the bench and bar of the Commonwealth, I may be pardoned for saying that in twenty capital trials before the jury, during my term of office, there has never, in any instance, been an unpleasant personal discussion, even upon questions of evidence; but I think these advantages may ordinarily be adequately secured by the presence of two justices. The general law of homicide is very well settled. Difficult legal questions seldom arise. The prisoner now has the right of exception. In cases of great public interest, or where difficult questions are anticipated, the justices might and probably would organize a court of three or four members. The very heavy pressure of judicial duties upon the justices of the supreme judicial court is very well known to the bar, and especially has been well known for more than ten years by

myself, while holding the offices of reporter of decisions and attorney general. There is a steady increase of these duties. It is not within the proper province of this report to submit any general observations upon this subject, outside of what pertains to the criminal jurisprudence and the proper and economical administration of the criminal law. In view of the numerous indictments for murder now pending, and likely to be found in the future, (judging by the experience of the past few years,) the passage of such a law would afford an appreciable relief to the court.

I have no further specific recommendations to make in regard to our criminal jurisprudence.

There is some difficulty in the administration of our criminal laws, arising from technical objections to indictments. If I could persuade myself that, under our constitution, it would be competent for the legislature to enact that short forms of indictments should be sufficient, like those now used in England and in some of the states of this Union, in which only the general and substantial fact is set out, I should not hesitate to press earnestly for this, as a much needed measure of law reform. But, with my views of the true construction of the constitution, this must be left to a constitutional convention. In matters of detail, certain improvements may no doubt be made from time to time by legislation, some of which I have suggested in former reports.

In taking leave of this office, after a longer time of service than any of my recent predecessors, since Ex-Governor Clifford, it may be suitable to give a brief summary of the principal criminal business which has been under my care.

There have been twenty trials for murder before the jury. In three instances, the jury disagreed; in two, there was an acquittal; in one other, one of the persons indicted was acquitted; seven persons were found guilty of manslaughter; six of murder in the second degree, and six of murder in the first degree. Of the latter six, two were hung; one committed suicide in jail; and the sentences of three were commuted by the governor and council to imprisonment for life. Twenty-five other indictments for murder have been disposed of during the same time, as follows: in five instances, by plea of guilty of

murder in the second degree; in seven, by plea of guilty of manslaughter; in five, the prisoner was sent to the hospital before trial, as probably insane; in two, it was deemed advisable to substitute indictments for manslaughter, upon which the prisoners were tried and convicted; in five, the prisoners were discharged upon their own recognizance, for want of sufficient evidence to go to trial upon; and one prisoner committed suicide in jail, before trial. Other criminal cases are only under the care of the attorney general while law questions arising therein are pending in the supreme judicial court, on exceptions, appeal, report, writ of error, habeas corpus, or otherwise. Of these there have been four hundred and sixty-three in all, (including about four months of my predecessor's time,) two hundred and forty of which were cases arising under the liquor laws. In three hundred and eighty-eight of the whole number, and in two hundred and eighteen of the two hundred and forty cases arising under the liquor laws, the decision of the supreme judicial court has been in favor of the Commonwealth. Cases arising under the liquor laws have received from me, as nearly as might be, the same attention as other criminal cases; neither more nor less.

Notwithstanding this considerable number of criminal cases, it remains true that the chief labor and care of this office arise from the civil business. It is now practically the case that the attorney general is the legal adviser not only of the governor and council, the treasurer, auditor and secretary of the Commonwealth, but also of the board of state charities, the insurance commissioner, and indeed all other officers who have interests of the Commonwealth intrusted to their charge, with no other provision for obtaining legal advice. Besides this, the care of public suits in the supreme court of the United States at Washington, the large commercial interests of the Commonwealth in connection with the Boston, Hartford and Erie Railroad, the South Boston flats, the Hoosac Tunnel, the Eastern, Norwich and Worcester, and Boston and Albany Railroads; the investigation of questions referred to me by the legislature, or one branch thereof, of which those relating to the Stockbridge Indians, and to the Hutchinson Papers, are examples; the enforcement of the laws, by informations against banks, railroad corporations and insurance companies; and the

collection of interest, corporation taxes, penalties, etc. (amounting in all to \$219,172.03, all of which has been accounted for to the treasurer of the Commonwealth), have given rise to duties of a diversified character. In all of these I have had the constant aid of Mr. James C. Davis, the assistant attorney general, who has rendered services indispensable to me, and of much advantage to the Commonwealth; and I have never been under the necessity of subjecting the Commonwealth to any expense for the aid of additional legal counsel in any matter intrusted to my official care.

The bill in equity brought against the Liverpool and London Life and Fire Insurance Co., to enforce payment of the tax assessed upon them, and carried to the supreme court of the United States and argued last winter, as mentioned in my last annual report, was decided in favor of the Commonwealth.

The suit brought by the commissioners on inland fisheries against the Holyoke Water Power Co., to compel that company to build a dam across the Connecticut River at Holyoke, decided in favor of the plaintiffs by our own supreme judicial court, and carried by the Water Power Company to the supreme court of the United States by a writ of error, has not yet been reached for argument in that court.

In pursuance of the authority given by the Resolve of 1871, c. 81, relating to the Hutchinson Papers, I adjusted the controversy between the Commonwealth and the Massachusetts Historical Society, upon the terms therein stated, and Mr. Henry Adams was mutually selected as arbitrator to identify the documents to be surrendered. I prepared a written statement on the part of the Commonwealth, and submitted the same to him, and a written statement in behalf of the society was also submitted. This was done on the 20th of December, and no result has yet been announced.

Tables are appended, showing the details of the cases which have been under my charge for the past year.

I have the honor to be,  
Very respectfully,  
Your obedient servant,

CHARLES ALLEN.

## C A S E S

*Argued and conducted by the Attorney General from January 1st to December 31st, 1871.*

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## COUNTY OF BERKSHIRE.

Commonwealth *v.* Robert Dougherty. S. J. C. *Assault and battery.* Report Superior Court. Judgment on the verdict.

Commonwealth *v.* Robert Dougherty. S. J. C. *Assault and battery.* Report S. C. Verdict set aside.

## COUNTY OF BRISTOL.

Commonwealth *v.* Charles H. Cuffee. S. J. C. *Murder.* Trial, May 16–18. Verdict—guilty of murder in the first degree. Questions of law reported. Judgment on the verdict. Sentence—death.

Commonwealth *v.* Mary Kennedy. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Thomas Roach. S. J. C. *Assault with a dangerous weapon.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Charles Fuchs. S. J. C. *Single sale of liquor.* Exceptions S. C. Exceptions waived.

Commonwealth *v.* Certain Intoxicating Liquors (Brown and Hayes, claimants). S. J. C. *Proceeding for forfeiture.* Exceptions S. C. Exceptions overruled.

## COUNTY OF DUKES COUNTY.

Commonwealth *v.* Allen Look *et al.* S. J. C. *Taking fish unlawfully.* Report S. C. Not decided.

Commonwealth *v.* Matthew Vincent. S. J. C. *Taking fish unlawfully.* Report S. C. Not decided.

## COUNTY OF ESSEX.

Commonwealth *v.* Terence Carroll. S. J. C. *Murder.* Defendant still in lunatic hospital.

Commonwealth *v.* Burton G. Roberts *et al.* S. J. C. *Man-slaughter.* Exceptions S. C. Exceptions sustained in part.

Commonwealth *v.* James Grady. S. J. C. *Keeping liquor for sale.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Arthur Robertshaw. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Young R. Fielding. S. J. C. *Common seller of liquor.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* John J. Ryan. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* George H. Moulton *et al.* S. J. C. *Threatening to accuse of crime.* Exceptions S. C. Not decided.

Commonwealth *v.* John Sullivan. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Robert Barrett. S. J. C. *Leaving the State to engage in a fight.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Mary E. Falvey. S. J. C. *Maliciously killing hens.* Exceptions S. C. Not decided.

Commonwealth *v.* Certain Intoxicating Liquors (Hugh Owen, claimant). S. J. C. *Proceeding for forfeiture.* Report S. C. Not decided.

Commonwealth *v.* John Kane. S. J. C. *Assault and battery.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* George Doe. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Henry Martin. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* John Tobin. S. J. C. *Assault upon an officer.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* David M. Boynton. S. J. C. *Assault with a dangerous weapon.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Bernard Rowley. S. J. C. *Keeping liquor for sale.* Exceptions S. C. Exceptions waived.

Commonwealth *v.* Daniel Carney. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Alvah Merrill. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Dennis Calhane. S. J. C. *Single sale of liquor.* Exceptions S. C. Not decided.

Commonwealth *v.* Bartholomew Kevill. S. J. C. *Keeping liquor for sale.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Andrew J. Walker *et al.* S. J. C. *Conspiracy.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Henry Martin. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Patrick S. Callahan. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

COUNTY OF FRANKLIN.

Commonwealth *v.* Simeon Peck. S. J. C. *Murder.* Defendant still in lunatic hospital.

Commonwealth *v.* Lyman J. White. S. J. C. *Murder.* Plea— guilty of murder in the second degree. Sentence—imprisonment for life.

Attorney General *v.* Proprietors of Deerfield River Bridge. S. J. C. *Information.* Decree for the plaintiff.

Commonwealth *v.* Simeon Canada. S. J. C. *Owning and keeping an unlicensed dog.* Exceptions S. C. Exceptions sustained.

Commonwealth *v.* Henry Wright. S. J. C. *Riotous assembly, assault, &c.* Exceptions S. C. Exceptions overruled.

COUNTY OF HAMPDEN.

Commonwealth *v.* F. Whitecomb. S. J. C. *Obtaining money by false pretences.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* John Jennings. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Simon Pierce. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Certain Intoxicating Liquors (Daniel McCauley, claimant). S. J. C. *Proceeding for forfeiture.* Report S. C. Report dismissed.

Commonwealth *v.* Ezekiel Adams. S. J. C. *Common seller of liquor.* Exceptions S. C. Exceptions waived.

Commonwealth *v.* Thomas Maroney. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* George E. Dorman *et al.* S. J. C. *Burglary.* Exceptions S. C. Exceptions waived.

COUNTY OF HAMPSHIRE.

Commonwealth *v.* Joseph Bakeman. S. J. C. *Attempting to obstruct a railroad.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* James Irwin. S. J. C. *Larceny.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* James Halloran. S. J. C. *Obtaining money by false pretences.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Patrick Cahill. S. J. C. *Keeping liquor for sale.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Certain Intoxicating Liquors (George B. Lyman, claimant). S. J. C. *Proceeding for forfeiture.* Exceptions S. C. Not decided.

Commonwealth *v.* Certain Intoxicating Liquors (M. H. Tuttle *et al.* claimants). *Proceeding for forfeiture.* Exceptions S. C. Exceptions sustained as to the verdict; other exceptions overruled.

COUNTY OF MIDDLESEX.

Commonwealth *v.* Andrew Donnelly. S. J. C. *Murder.* Defendant still in lunatic hospital.

Commonwealth *v.* Thomas Hertz. S. J. C. *Murder.* Not yet tried.

Commonwealth *v.* Maria Birmingham, *alias* Birmingham.. S. J. C. *Murder.* Not yet tried.

Commonwealth *v.* Joseph Sullivan. S. J. C. *Murder.* Not yet tried.

Commonwealth *v.* Thomas Fagan, *et al.* S. J. C. *Robbery.* Exceptions S. C. Exceptions sustained.

Commonwealth *v.* James Connolly. S. J. C. *Assault upon officer.* Exceptions S. C. Exceptions overruled.

Attorney General *v.* Benjamin F. Woods. S. J. C. *Information to restrain building of dam.* Not decided.

Commonwealth *v.* Melvin E. Dam. S. J. C. *House of ill-fame.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Inhabitants of Holliston. S. J. C. *Defective highway.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* John O'Brien *et al.* S. J. C. *Assault and battery.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Inhabitants of Sudbury. S. J. C. *Contract, to recover for support of pauper.* Appeal S. C. Judgment for the defendants.

Commonwealth *v.* Sarah J. Blaisdell. S. J. C. *Nuisance.* Exceptions S. C. Exceptions overruled.

Willard Drury *et al.*, Trustees *v.* Inhabitants of Natick *et al.* *Bill in equity by trustees under will, for instructions.* Final decree entered, granting instructions.

Attorney General *v.* Edmund Rice *et al.* S. J. C. *Information, for injunction.* Decree for temporary injunction.

Attorney General *v.* John W. Hollis *et al.* S. J. C. *Information, for injunction.* Not yet heard.

Nathan Tufts, Jr. *et al.* *v.* City of Charlestown *et al.* S. J. C. *Petition for appointment of commissioners.* Not yet heard.

Commonwealth *v.* Julius Smith. S. J. C. *Larceny in a building.* Report S. C. Judgment on the verdict.

Commonwealth *v.* Sophia C. Thompson *et al.* S. J. C. *Abortion.* Exceptions S. C. Not decided.

Commonwealth *v.* William P. Bearse. S. J. C. *Mixing poison with food.* Exceptions S. C. Not decided.

COUNTY OF NORFOLK.

Commonwealth *v.* John Moran. S. J. C. *Murder.* Trial May 23–25. Verdict—guilty of murder in the second degree. Exceptions taken and overruled. Sentence—imprisonment for life.

Commonwealth *v.* Dennis Carney. S. J. C. *Murder.* Defendant committed to lunatic hospital.

Commonwealth *v.* John Kilday. S. J. C. *Murder.* Not yet tried.

Commonwealth *v.* David Scannell. S. J. C. *Murder.* Not yet tried.

In the matter of the will of Sarah C. Lewis. S. J. C. Appeal from Probate Court. Not yet tried.

Commonwealth *v.* Philip P. Conneally. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* William Woolford. S. J. C. *Liquor nuisance.* Appeal S. C. Judgment on the verdict.

Commonwealth *v.* Patrick Maguire. S. J. C. *Receiving stolen goods.* Exceptions S. C. Exceptions overruled.

COUNTY OF PLYMOUTH.

Commonwealth *v.* James Armstrong. S. J. C. *Murder.* Plea— guilty of manslaughter. Sentence—twenty years' imprisonment.

Commonwealth *v.* Dennis Monnahan. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* John Sexton. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions waived.

COUNTY OF SUFFOLK.

Commonwealth *v.* Thomas Branning, *alias* Thomas Brennan. S. J. C. *Murder.* Defendant committed to lunatic hospital.

Commonwealth *v.* Cornelius Conner, *alias* Cornelius Connors. S. J. C. *Murder.* Not yet tried.

Commonwealth *v.* Michael Doyle. S. J. C. *Murder.* Not yet tried.

Henry K. Oliver, Treasurer *v.* Liverpool and London Life and Fire Insurance Company. S. J. C. *Petition for injunction.* Decree for complainant affirmed by U. S. Supreme Court.

Four Farm Oil Company, Petitioners, &c. S. J. C. *Petition for dissolution of corporation.* Not yet tried.

Boston Bennyhoff Reserve Oil Company, Petitioners, &c. S. J. C. *Petition for dissolution of corporation.* Not yet tried.

Commonwealth *v.* William H. Gardiner. S. J. C. *Information.* Not yet tried.

Attorney General *v.* Tudor Ice Company. S. J. C. *Information.* Information dismissed.

Commonwealth *v.* Josephine Howard *et al.* S. J. C. *Larceny from the person.* Exceptions S. C. Exceptions overruled.

Theodore Lyman *et al.*, Commissioners on Inland Fisheries *v.* Holyoke Water Power Company. S. J. C. *Information.* Continued, to wait decision of the U. S. Supreme Court on writ of error.

Attorney General *v.* Wheeler Metal Forging Company. S. J. C. *Information, for tax.* Temporary injunction still in force.

Thomas Leslie *v.* Commonwealth. S. J. C. *Error to Trial Justice.* Writ dismissed.

Attorney General *v.* Adams Mining Company. Same *v.* Kear-sarge Mining Company. Same *v.* Ossipee Mining Company. Same *v.* South Pewabic Copper Company. S. J. C. *Informations, for tax.* Temporary injunctions still in force.

Commonwealth *v.* Eastern Railroad Company. S. C. *Tort, for penalty under St. 1868, c. 89.* Judgment for plaintiff.

Commonwealth *v.* City of Lynn. S. C. *Contract, to recover for support of pauper.* Judgment for plaintiff.

Commonwealth *v.* Eastern Railroad Company. S. J. C. *Contract, on bond.* Not yet tried.

Commonwealth *v.* Norwich and Worcester Railroad Company. S. J. C. *Contract, on bond.* Not yet tried.

Commonwealth, by Insurance Commissioner, *v.* Monitor Mutual Fire Insurance Company. S. J. C. *Petition for injunction.* Injunction issued and receiver appointed.

Commonwealth *v.* Luke Hennessey. S. J. C. *Keeping liquor for sale.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Thomas Ackland. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Dennis O'Connor. S. J. C. *Adultery.* Exceptions S. C. Exceptions sustained.

Commonwealth *v.* Charles H. Hatfield. S. J. C. *Perjury.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* William Lynn. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* William Lynn. S. J. C. *Keeping liquor for sale.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Thomas Limerick *et al.* S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Patrick Cogan. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* William R. Foster. S. J. C. *Embezzlement.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* John Lee. S. J. C. *Attempt to rescue a prisoner.* Exceptions S. C. Exceptions overruled.

Thomas McLaughlin *v.* Gideon Haynes. S. J. C. *Habeas corpus.* Prisoner remanded.

Thomas McLaughlin *v.* Commonwealth. S. J. C. *Error to S. C.* Writ not entered.

Commonwealth *v.* Silas Chamberlain *et al.* *Forgery.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* James Donahue. S. J. C. *Receiving stolen goods.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* John McGowan. S. J. C. *Keeping liquor for sale.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* James Hayes *et al.* S. J. C. *Burglary.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Albert Morgan. S. J. C. *Libel.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Mary Dwinells *et al.* S. J. C. *Contract, on recognizance.* Exceptions S. C. Demurrer sustained.

Commonwealth *v.* James Noonan *et al.* S. J. C. *Robbery.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Jerome G. Kidder *et al.* S. J. C. *Nuisance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Elisha W. Haynes, Jr. S. J. C. *Selling adulterated milk.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* James C. Chesley. S. J. C. *Obtaining goods by false pretences.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Certain Intoxicating Liquors (John Cahill, claimant). *Proceeding for forfeiture.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Michael Sullivan. S. J. C. *Maliciously injuring personal property.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Metropolitan Railroad Company. S. J. C. *Causing death by negligence.* Exceptions S. C. Exceptions overruled.

Attorney General, Petitioner, &c. S. J. C. *Petition for appointment of Commissioners as to Charles River and Warren Bridges.* Award of commissioners accepted.

Commonwealth v. Mary Gilligan. S. J. C. *Larceny.* Exceptions S. C. Exceptions overruled.

Commonwealth v. Patrick Gilligan. S. J. C. *Receiving stolen goods.* Exceptions S. C. Exceptions overruled.

First National Bank of Norwich, Connecticut, v. City of Boston *et al.* S. J. C. *Bill in equity for injunction against collection of tax.* Demurrer to bill sustained.

Attorney General v. Hancock Sewing Machine Company. S. J. C. *Information, for tax.* Tax and costs collected, and information withdrawn.

Attorney General v. Harbor Improvement Company. S. J. C. *Information, for tax.* Tax and costs collected, and information withdrawn.

Attorney General v. Massachusetts Glass Company. S. J. C. *Information, for tax.* Respondent corporation adjudged bankrupt, and information withdrawn.

Attorney General v. New England Chemical Fire Engine Company. S. J. C. *Information, for tax.* Injunction issued. Tax and costs paid and information dismissed.

Attorney General v. New England Spring Bed Company. S. J. C. *Information, for tax.* Tax and costs paid, and information withdrawn.

Maurice Morey v. Commonwealth. S. J. C. *Error to S. C.* Judgment affirmed.

Commonwealth v. Thomas Battline. S. J. C. *Larceny in a building.* Exceptions S. C. Conviction to stand for simple larceny only.

Commonwealth v. Charles P. Brigham. S. J. C. *Cruelty to a horse.* Exceptions S. C. Exceptions overruled.

Commonwealth v. James H. Finn. S. J. C. *Robbery.* Exceptions S. C. Exceptions overruled.

Commonwealth v. George Caldwell. S. J. C. *Defacing a dwelling-house.* Exceptions S. C. Exceptions overruled.

William W. Goddard v. City of Boston *et al.* S. J. C. *Bill in equity.* Not yet heard.

John Donahue v. Commonwealth. S. J. C. *Error to S. C.* Not yet argued.

Commonwealth v. John B. Carey. S. J. C. *Keeping liquor for sale.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* John R. Hazeltine. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Frederic Lockwood. S. J. C. *Obtaining goods by false pretences.* Exceptions S. C. Exceptions waived.

Attorney General *v.* John M. Clark. S. J. C. *Petition for mandamus.* Alternative mandamus issued.

Commonwealth *v.* Moses Kimball. S. J. C. *Perjury.* Report S. C. Not decided.

Commonwealth *v.* Martin King. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

John S. Kenney *v.* Charles H. Davis. S. J. C. *Habeas corpus.* Petition dismissed.

Louisa J. Stone *v.* Marcus Ames. S. J. C. *Habeas corpus.* Prisoner discharged.

Commonwealth *v.* Thomas Haney. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Michael Winton *et al.* S. J. C. *Assault and battery.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Lawrence Finnegan *et al.* S. J. C. *Robbery.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Elisha W. Haynes, Jr. S. J. C. *Selling adulterated milk.* Report S. C. Judgment on the verdict.

Commonwealth *v.* Gottlieb R. Reichert. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Patrick Gallagher. S. J. C. *Single sale of liquor.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Charles H. Dorus, *alias* Jack Straw. S. J. C. *Threatening to accuse of crime.* Exceptions S. C. Not decided.

First National Bank of Norwich, Connecticut, *v.* Frederic U. Tracy. S. C. *Tort, to recover tax paid on bank stock.* Not yet tried.

Commonwealth *v.* Michael McLaughlin. S. J. C. *Conveying liquor for sale.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* William J. Crocker. S. J. C. *Burglary.* Report S. C. Judgment on the verdict.

Commonwealth *v.* Hugh McAfee. S. J. C. *Manslaughter.* Exceptions S. C. Exceptions overruled.

Commonwealth, by Insurance Commissioner, *v.* Hide and Leather Insurance Company. S. J. C. *Petition for injunction.* Injunction issued and receivers appointed.

Commonwealth, by Insurance Commissioner, *v.* New England Mutual Marine Insurance Company. S. J. C. *Petition for injunction.* Injunction issued and receivers appointed.

Commonwealth, by Insurance Commissioner, *v.* Independent Insurance Company. S. J. C. *Petition for injunction.* Injunction issued and receivers appointed.

Commonwealth *v.* William H. Brooks. S. J. C. *Violating city ordinance.* Report S. C. Not yet argued.

Daniel Collins, Petitioner, &c. S. J. C. *Petition for a writ of habeas corpus.* Petition dismissed.

George G. Batchelder *v.* The Commonwealth. S. J. C. *Error to S. C.* Not yet argued.

Commonwealth *v.* Thomas Wood, *alias* Thomas Powers. S. J. C. *Larceny from the person.* Exceptions S. C. Not yet argued.

Commonwealth *v.* William J. Sutherland. S. J. C. *Receiving stolen goods.* Exceptions S. C. Not yet argued.

Attorney General *v.* Boston and Maine Railroad. S. J. C. *Information, for injunction.* Information dismissed.

Henry Clay Coal Company, Petitioners, &c. S. J. C. *Petition for reduction of capital stock.* Not opposed.

#### COUNTY OF WORCESTER.

Commonwealth *v.* Patrick Dumphy *alias* Patrick Dunvy. S. J. C. *Murder.* Not yet tried.

Commonwealth *v.* John C. Dennis. S. J. C. *Attempt to commit suicide.* Exceptions S. C. Exceptions sustained.

Commonwealth *v.* George R. Wetherbee. S. J. C. *Soliciting insurance without authority.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* William Kinsley. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Patrick Collins *et al.* S. J. C. *Assault upon an officer.* Exceptions S. C. Exceptions waived.

Commonwealth *v.* Lafayette Carpenter. S. J. C. *Threatening to accuse of crime.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* John C. Bennett. Commonwealth *v.* same. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* John C. Bennett. *Keeping liquor for sale.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Certain Intoxicating Liquors (Smith Navin, claimant). S. J. C. *Proceeding for forfeiture.* Report S. C. Report dismissed.

Commonwealth *v.* Samuel Perris *et al.* S. J. C. *Breaking and entering.* Exceptions S. C. Exceptions sustained.

Commonwealth *v.* Sullivan Moore. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions waived.

Commonwealth *v.* Samuel Cheney *et al.* S. J. C. *Contract, on recognizance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Charles H. Whitney. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Vermont and Massachusetts Railroad Company. S. J. C. *Causing death by negligence.* Exceptions S. C. Not decided.

Commonwealth *v.* William Wallace. S. J. C. *Concealing mortgaged personal property.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Michael O'Driscoll. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions waived.

Commonwealth *v.* Certain Intoxicating Liquors (Michael O'Driscoll, claimant). S. J. C. *Proceeding for forfeiture.* Exceptions S. C. Exceptions overruled.

Commonwealth *v.* Ira P. Bacon. S. J. C. *Liquor nuisance.* Exceptions S. C. Exceptions sustained.

Commonwealth *v.* Nellie Carter. S. J. C. *Vagrancy.* Exceptions S. C. Exceptions overruled.

#### SUPREME COURT OF THE UNITED STATES.

Liverpool and London Life and Fire Insurance Company *v.* Henry K. Oliver, Treasurer. *Error to S. J. C.* Judgment of Supreme Judicial Court affirmed.

Holyoke Water Power Company *v.* Theodore Lyman *et al.*, Commissioners on Inland Fisheries. *Error to S. J. C.* Not yet argued.

#### CIRCUIT COURT OF THE UNITED STATES, MASSACHUSETTS DISTRICT.

Thomas Baring *et al.* *v.* Charles S. Bradley *et al.* *Bill of Interpleader.* Answer filed on behalf of the Commonwealth. Not yet heard.

#### DISTRICT COURT OF THE UNITED STATES, MASSACHUSETTS DISTRICT.

Metallic Compression Casting Company, in bankruptcy. *Claim for tax.* Tax collected.

Massachusetts Glass Company, in bankruptcy. *Claim for tax.* Claim proved.

## T A B L E

*Showing the Number of Criminal Cases pending on Questions of Law in the Supreme Judicial Court during the year 1871, and the disposition thereof, by Counties.*

C O U N T I E S .	Cases pending.				
		Decided for the Commonwealth.	Decided against the Commonwealth.	Argued, but not yet decided.	Not yet argued.
BERKSHIRE,	2	1	1	-	-
BRISTOL,	5	5	-	-	-
DUKES,	2	-	-	2	-
ESSEX,	23	18	1	4	-
FRANKLIN,	2	1	1	-	-
HAMPDEN,	7	7	-	-	-
HAMPSHIRE,	6	4	1	1	-
MIDDLESEX,	9	6	1	2	-
NORFOLK,	4	4	-	-	-
PLYMOUTH,	2	2	-	-	-
SUFFOLK,	47	40	2	2	3
WORCESTER,	18	14	3	1	-
Totals,	127	102	10	12	3

## T A B L E

*Showing the Number and Character of Criminal Cases pending on Questions of Law in the Supreme Judicial Court during the year 1871, and the disposition thereof.*

O F F E N C E S .	Cases pending.	Decided for the Commonwealth.		Decided against the Commonwealth.	Argued, but not yet decided.	Not yet argued.
		Decided	Commonwealth.			
Abortion, . . . . .	1	-	-	-	1	-
Adultery, . . . . .	1	-	-	1	-	-
Assault and battery, . . . . .	5	4	1	-	-	-
Assault upon an officer, . . . . .	3	3	-	-	-	-
Assault with a dangerous weapon, . . . . .	2	2	-	-	-	-
Attempt to commit suicide, . . . . .	1	-	1	-	-	-
Attempt to obstruct a railroad, . . . . .	1	1	-	-	-	-
Attempt to rescue a prisoner, . . . . .	1	1	-	-	-	-
Burglary, . . . . .	4	3	1	-	-	-
Causing death by negligence, . . . . .	2	1	-	-	1	-
Common seller of liquor, . . . . .	2	2	-	-	-	-
Concealing mortgaged personal property, . . . . .	1	1	-	-	-	-
Conspiracy, . . . . .	1	1	-	-	-	-
Conveying liquor for sale, . . . . .	1	1	-	-	-	-
Cruelty to a horse, . . . . .	1	1	-	-	-	-
Defacing a dwelling-house, . . . . .	1	1	-	-	-	-
Embezzlement, . . . . .	1	1	-	-	-	-
Forgery, . . . . .	1	1	-	-	-	-
Keeping house of ill-fame, . . . . .	1	1	-	-	-	-
Keeping liquor for sale, . . . . .	9	9	-	-	-	-
Larceny, . . . . .	6	4	1	-	-	1
Leaving the State to engage in a fight, . . . . .	1	1	-	-	-	-
Libel, . . . . .	1	1	-	-	-	-
Liquor nuisance, . . . . .	32	31	1	-	-	-

*Number and Character of Criminal Cases—Continued.*

OFFENCES.	Cases pending.	Decided for the Commonwealth.	Decided against the Commonwealth.	Argued, but not yet decided.	Not yet argued.
Liquor seizure, . . . . .	8	5	1	2	-
Malicious injury to personal property,	1	1	-	-	-
Maliciously killing hens, . . . . .	1	-	-	1	-
Manslaughter, . . . . .	2	1	1	-	-
Mixing poison with food, . . . . .	1	-	-	1	-
Murder, . . . . .	2	2	-	-	-
Neglect to repair highway, . . . . .	1	1	-	-	-
Nuisance, . . . . .	2	2	-	-	-
Obtaining property by false pretences,	4	4	-	-	-
Owning and keeping an unlicensed dog, . . . . .	1	-	1	-	-
Perjury, . . . . .	2	1	-	1	-
Receiving stolen goods, . . . . .	4	3	-	-	1
Riotous assembly, . . . . .	1	1	-	-	-
Robbery, . . . . .	4	3	1	-	-
Selling adulterated milk, . . . . .	2	2	-	-	-
Single sales of liquor, . . . . .	3	2	-	1	-
Soliciting insurance without authority,	1	1	-	-	-
Taking fish unlawfully, . . . . .	2	-	-	2	-
Threatening to accuse of crime, . . . . .	3	1	-	2	-
Vagrancy, . . . . .	1	1	-	-	-
Violating city ordinance, . . . . .	1	-	-	-	1
Totals, . . . . .	127	102	10	12	3









